EDITOR'S NOTE

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Supreme Court, U.S.
FILED
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IN THE SUPREME COURT
OF THE UNITED STATES
October Term 1996

ROGER J. DE WIEST, Petitioner
v.
JEAN-LUC DEHAENE & STATE OF BELGIUM, Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

ROGER J. DE WIEST
Advocate sworn, September 1995,
Court of Appeals, Ghent, Belgium
Hoogveld 21, 9300 Aalst, Belgium
(32)-53.21.18.10
PROCEEDING PRO SE
February 28th 1997

53 pp

QUESTIONS PRESENTED

1. Can a Federal Court by virtue of 28 U.S.C. § 1605 (5)(A) of the 1976 FSI Act (the Foreign Sovereign Immunities Act) grant psychiatric abuse as a discretionary function to any Sovereign, Agency or Instrumentality of a foreign State, when the People and the Parliament of that State, through their Custom (Coutume) Law, possess this privilege and have never granted this privilege ?

2. Should not the fact that leading Faculties of Law, such as the Florida State College of Law, the Stanford School of Law, and most to the point the Dean Rusk Center for International and Comparative Law through the President of the University of Georgia, have contracted pledges with Petitioner each for $ 2 million, contingent upon the result of the present litigation, and upon reading of the First Person Story **Rich in Brains, Poor in Bricks**, submitted to the Princeton Alumni Weekly on May 3, 1996, have wakened the Court of Appeals and forced it to read the case and not to engage in wilfull blindness ?

3. If one considers the well established " ... practice is that a state loses its sovereign immunity for tortious acts only when they occur in the territory of the forum state (the U.S.) (Mc. Keel v. Islamic Republic of Iran, GA. J.Int'l & Comp.L. p.419), should not the Court of Appeals have used Rule 19. Procedure on a Certified Question, to learn from the Supreme Court that even if the Respondents

would be entitled to psychiatric abuse against a U.S. citizen within the territory of Belgium, which is not true, they would not be immune from the jurisdiction of U.S. Courts for criminal psychiatric abuse against a U.S. citizen within the territory of the United States?

4. Is the conflict between the *McKeel* decision of the 9th Circuit Federal Court of Appeals and the present decision by the 11th Circuit Federal Court of Appeals as far as location of the trespasses on U.S. territory is concerned not a reason for granting certiorari by the U.S. Supreme Court ? (Supreme Court Practice, 6th Edition, Chapter 4. Factors Motivating the Exercise of Jurisdiction.)

5. Granted that the U.S. Supreme Court is not just another Court to correct errors in appeals, is not the fact that the decision by the District Court and summarily affirmed by the Court of Appeals is based upon a clear text forgery , recognized by the Courts and Supreme Court of the Respondents, so shockingly wrong that Petitioner's substantial due process right protected by the 14th Amendment has been violated?

6. Does a naturalized U.S. citizen who, in violation of the VIIIth Amendment, has been victim of criminal psychiatric abuse in his native country for more than fifteen years because he has become a U.S. citizen, have the right to petition his Government for a redress of grievances (First Amendment) ?

7. Does this U.S. citizen have a right to petition the U.S. Supreme Court for *Habeas Mentem* ?

LIST OF PARTIES

The parties to the proceedings below are the Petitioner Roger J. De Wiest and the Respondents Jean-Luc Dehaene (Principal Defendant) and the State of Belgium (Warrantor Defendant).
In view of the clear-text forgery committed by the U.S. Magistrate Judge in the U.S. District Court, the U.S. may or may not be a Party . Petitioner, as a pro se litigant, leaves this up to the discretion of the Court.

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IN THE SUPREME COURT OF
THE UNITED STATES

October Term, 1996

ROGER J. DE WIEST, Petitioner

v.

JEAN-LUC DEHAENE &
STATE OF BELGIUM, Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

The petitioner Roger J. De Wiest respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Eleventh Circuit, entered in the above-entitled proceeding on December 17, 1996

OPINIONS BELOW

The opinion of the Court of Appeals for the Eleventh Circuit has not been reported. It is retyped in the Appendix hereto, p. 1 A, infra .

The Report and Recommendation of the United States Magistrate Judge, William C. Sherrill, Jr., has not been reported . It is retyped in the appendix hereto, pp. d.c. 1 - 6.

The Order of Dismissal of the United States District Judge William Stafford for the Northern District of Florida has not been reported. It has been retyped in the appendix hereto, pp.d.c. 7 - 8.

JURISDICTION

Petitioner brought this suit before the Northern District of Florida, Tallahassee Division as a litigation between a U.S. citizen Roger J. De Wiest, and a citizen of a foreign State, Jean-Luc Dehaene, at the time of the offense being the Minister of Social Affairs of the state of Belgium, and therefore it is governed by Art.III, Section 2, (1), of the U.S.C.

On March 23, 1995, the Northern District Court dismissed the suit. See pp. d.c. 7- 8, infra.

On petitioner's appeal, the Eleventh Circuit on December 17, 1996 affirmed the above decision. Due to lack of time and financial means, no petition for rehearing could be sought.

The jurisdiction of this Court to review the judgment of the Eleventh Circuit is invoked under 28 U.S.C. § 1254 (1).

STATUTE INVOLVED

28 U.S.C §1291 Final decisions of district courts

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States.

STATEMENT OF THE CASE

Petitioner hereafter converts the FIRST PERSON story submitted to the Princeton Alumni Weekly, May 3, 1996, and to whom it may concern

RICH IN BRAINS, POOR IN BRICKS

into a Third Person Story that moved the Dean of the Florida State College of Law, best placed to judge the litigation, the Dean of the Stanford Law School , best placed to judge Petitioner's merits ,the President of University of Georgia for the Dean Rusk Center to contract pledges with petitioner.

How he pledged $ 16 million to U.S. Education

by Roger J. De Wiest Princeton Fac. 1959-75

At first sight it can't be done. Yet he made the pledge in the Court of Appeals of the 11th Circuit, Atlanta, Ga, in the Case 95-3344 **De Wiest v. Dehaene & State of Belgium** on appeal from the U.S. District Court of N. Florida, Tallahassee, by its own admission a small and relatively obscure Federal Court which recently gained some notoriety by sending F. Lee Bailey into the Tallahassee Penitentiary as revealed on the Larry King Show.

Petitioner left Princeton in 1975 for his native country of Belgium, with a dying child, a boy who had fallen victim in 1969, at age 4, to the cruel disease of metachromatic leukodystrophy and eventually died at the age of 11 at Ghent Medical School, where petitioner just completed the M.D. degree first out of a class of 160 medical doctors. Hence the book **Night Flight to Brussels**, which obtained three stars in the West Coast Review of Books.

He was stranded in Belgium, with two teenage daughters, and enlisted as a medical doctor in the NISI, the Belgian State Institute of Sickness and Invalidity, employing some two hundred medical doctors. Unfortunately, in linguistically torn Belgium, petitioner succeeded first, magna cum laude in the French language examinations at the highest level, and according to some legal experts, he had to be appointed to the position of Administrator General of the Institute. He must admit that previously he had graduated no.1 from Caltech and with written congratulations with the Ph.D. from Stanford, in less than two calendar years.

Glancing through Nixon's Watergate text presented on August 15, 1973, on the burglary of the office of Daniel Ellsberg's one time psychiatrist, and the former President's claim for Executive Privileges, today petitioner sees a similarity with Dehaene's tactics of eliminating him as the leading candidate for

the top position at the NISI, by means of the psychiatric weapon.

In 1975 petitioner had suffered a severe but shortlasting one time exogenous depression in light of the circumstances above, on which occasion he was treated by Professor Constantin Jannes, M.D., presently Chairman of Psychiatry, University of Ghent, at the time of Dehaene's attack late 1981-early 1982, Vice President for Europe of the World Organization of Mental Health. Dehaene, then an obscure Minister of Health and Welfare, since then Premier of Belgium and now militant aspirant to become the First President of the European Union, mightier than the United States, first confiscated petitioner's medical file in the hands of Dr. Jannes and then forged it through his chief of cabinet, a general practitioner who, subservient to Dehaene, declared petitioner a " manic and paranoid psychopath" without ever having seen him.

Banned from Belgium, petitioner returned to the U.S. in 1982 where, at the University of California in San Diego, he discovered that this criminal diagnosis had been used only once before, in 1905 against Jesus Christ by the German psychiatrist Georg de Loosten. It remained for Albert Schweitzer in his dissertation for the M.D. degree (Tuebingen 1913), to him an inescapable duty as the future man of Lambarene to come to the rescue of the Nazarene by proving that in the context of psychopathy, the adjectives paranoid

and manic are mutually exclusive.

Shortly therefore, on June 3, 1982, petitioner won a hallmark decision against Dehaene before the Court of Brussels, Judge André Dujardin presiding, for which the Judge payed a heavy price. Less than three weeks later, petitioner was received by Dehaene in his cabinet. Son of a psychiatrist, brother of a practising psychiatrist, Dehaene knew what he was doing, confirmed the diagnosis and appealed the decision.

In 1983, while petitioner was Director of Hydrology for the State of Texas and Distinguished Professor in the Texas A & M University System, he made the acquaintance of Phil Gramm and, at his request, sent him a monograph on Dehaene's psychiatric abuse, after a judge appointed by Dehaene declared on September 26, 1983, that the criminal diagnosis of " manic & paranoid psychopathy " had acquired **res judicata.**

As of June 1, 1985, petitioner started a new tenure earning job in the newly established FAMU/FSU College of Engineering, Tallahassee. As an "incurably sick person in Belgium", petitioner was tenured and therefore kept on drawing 60 % of his salary as a medical doctor. He still had five years to go before regular retirement and Dehaene was tired of paying him that salary. Therefore he wanted to extract from the State of Florida a concurrent opinion and on July 18, 1985 sent a series of photocopies, unspecified in number and content, one of them

containing plain and clear the diagnosis of " manic and paranoid psychopathy" . Petitioner was immediately warned that the State of Florida could not hire psychopaths and six months later was informed of his dismissal.

This happened at the peak of petitioner's career as an hydrologist, the time when in 1986 he unveiled the elements of his Hydro-Cor engine at the International Conference on Water and Human Health, Atlanta, Ga , now patented in Belgium with a ten-year delay , which will allow to recover part of the energy lost by the great streams discharging into the Oceans, a new use of hydraulic energy, independent of fossil derived combustibles . How expensive is this delay to the American consumer of energy ? It was the time when in 1986 he presented an original paper on the Abalone Cove Landslide near Los Angeles at the Geological Society of London, but as a psychopath he was prohibited from using a type writer, which prevented publication. (Now scheduled for publication at the June 23 - 27, 1997 International Symposium on Engineering Geohydrology, Athens , Greece)

It was the time when he discussed with his Stanford (1957-59) contemporanean William W. Van Alstyne the bipolar nature of res judicata in the context of criminal matters and its tripolar nature in civil matters, at least in the Civil Legal System. Wrote Van Alstyne :" On the point of res judicata you raised

I agree that the principle standardly has three components (same parties, same transaction, same cause of action).

When he learned about petitioner's toils and travails, Phillip L. Martin, Director of the University Presses of Florida, on December 12, 1985, expressed himself as follows :

The range of Dr. De Wiest's learning is astounding He may be justified in wishing that genius be permitted to invent new forms for autobiographical exposition.

While he was still on the FAMU Campus, fired on Christmas 1985, he received the highest distinction in his field , the first C.V. Theis Award, at a meeting of the American Institute of Hydrology in San Francisco, on March 26, 1987.

Worried about the state of his coronaries, petitioner developed a mathematico-pathological model which made it possible, with the help of two judicially chosen heart catheterizations, to optimize the time for bypass surgery. A few weeks after he received his five year law degree from Louvain University in 1992, petitioner received a five fold coronary bypass . Submitted to the JAMA, the paper met with respect but was not published because the catheterizations were too expensive, at least in the States, and therefore not accessible to a large part of the population. Said Aldous Huxley : You count your money, and you place your bets.

Petitioner had to wait for the final decision(psychopathy , res judicata) by the Belgian Council of State (housed in the Executive Branch of Dehaene) on February 28, 1994 before he could bring the case before the U.S. District Court in Tallahassee, on May 19, 1994.

The District Court was very cooperative until Dehaene, on February 11, 1995, brought a Head of State visit to President Clinton, in company of Marxist Trojan Horse Franky Vandenbroucke, who even succeeded in charming Jesse Helms.

Then there was a complete about-face by the Court and rumors were spread in Belgium of Executive Privileges. How could one explain the decision by the District Court, to discharge with prejudice in favor of the Defendants ? Did Dehaene make campaign contributions to Clinton ? Now under investigation.

Many of Dehaene's red coalition partners, among them Franky Vandenbroucke who burned a $ 1,000,000 bribery gift, have been forced to step down. The most notorious one was NATO-boss Claes, left with the U.S. and Dehaene as sole supporters, who found no mercy in the eyes of Procureur Général Jacques Vélu, who also is in possession of the CLEAR TEXT FORGERY described by petitioner in his September 6, 1995, Petition for an Extraordinary Writ to the U.S. Supreme Court in order to obtain Habeas Mentem ad subjudiciendam as an extension sensu lato of the

Habeas Corpus Act ad subjudiciendum of 1679 under Charles II.

It is now clear, also to the Judiciary of Belgium, that if such an Act had been available, there would never have been a case De Wiest v. Dehaene, and neither would there have been any DUTROUX case, (Time Magazine OUTRAGE, September 2, 1996) because Dutroux would never have been released from prison.

The unraveling step by step of the Clear Text Forgery as it took place in the Office of the King's Prosecutor in Brussels, Belgium, during the interrogation by Judicial Officer Gilbert Denruyter on April 28, 1995, is also described in the Appendix, p. 11 a.

Between the date of November 2, 1994, of the filing of the corpus delicti (see p. 8 a , Appendix) and the date of March 23, 1995, date of the District Court's Order, there was ample time for the Court to study the file before discharging the Defendants with prejudice.

THE 1976 FOREIGN SOVEREIGN IMMUNITY ACT (FSIA).

Discussed under REASONS FOR GRANTING THE WRIT , but "bis repetita placent", this one puts the icing on the cake :

The District Court has granted, by virtue of 28 U.S.C. § 1605 (5)(A) to Dehaene and his Sovereign King of Belgium the psychiatric weapon as a

discretionary function, in flagrant contradiction with The 1994 Tallahassee Declaration on Psychiatric Abuse by Governments, stating that it is not within the discretionary function of any Sovereign, State or Government to engage in psychiatric abuse, a Declaration signed, amongst others by :

1. Professor C. Jannes, M.D., Chairman Department of Psychiatry, University of Ghent
2. Professor O. Steenhaut, Ph.D.Engrg & Physics, M.I.T. & L.S.U., Past President U. of Brussels 3. Professor E. Somers, LL.D., International Public Law, University of Ghent.

Defendant Dehaene may very well have given this argument to his American lawyers, but he himself never claimed this privilege, for if he did, he would have been tarred and feathered and carried out of town on a rail. **This is judge-made abuse.** This privilege through the Legal Custom Law of Belgium rests in the hands of the People of Belgium and their Representatives in Parliament. Psychiatric abuse is outlawed in Belgium and the trial judge abused his discretion by granting to the Defendants a privilege which he does not possess. His decision is clearly erroneous and it damages the public image of the U.S. in the World. His decision must be reversed.

Petitioner in his capacity of Senior Fulbright-Hays Fellow 1969-70 for the Department of State and NATO Professor at the University of Iceland , as former Member of the Board of Directors of the First

Herbert Hoover Foundation, is entitled to compensatory damages in the amount of $12,000,000 as pledged to U.S. Education and $ 4,000,000 to Belgian and Swedish Charity to the parents of Julie et Mélissa, et al., and to the Swedish Protect the Children Fund. . His final amended demand is reported in the Appendix, p.13 a.

Note : This is an abridged and updated version of the First Person Story submitted to Princeton Alumni Weekly on May 3, 1996

Post Scriptum :

History teaches that dictators or would be dictators must be removed by their commilitones rather than by their comedones . As a non- catholic, church going Christian, petitioner became a member of Dehaene's catholic Party , where he enjoys the highest esteem..

Thus he learned from the President of his Party that Dehaene had received insider information that he would enjoy immunity from the U.S. Court of Appeals as long as possible.

This information squares with the fact that one can hardly call the summary dismissal by the Court of Appeals a De Novo review as defined by 28 §1602 (11) Findings and declaration of purpose.
Court of Appeals reviews de novo district court's conclusions about sovereign immunity under FSIA. Walter Fuller Aircraft Sales,Inc. v. Republic of Philippines, C.A. 5(Tex.) 1992, 965 F.2d 1375

REASONS FOR GRANTING THE WRIT

I

The District Court has erroneously dismissed Petitioner's complaint against the Respondents for lack of subject-matter jurisdiction.

The Court followed blindly the arguments by the Respondents, stating ex cathedra that the Court lacks subject matter jurisdiction by the mere fact that the Respondents are automatically entitled to sovereign immunity under Section 1603 of the FISA. Such a claim, an apparent syllogism is nothing but a transparent sophism because
Section 1605 considers many exceptions to the jurisdictional immunity of a foreign state, which makes it indispensable not only to examine the Belgian Penal Code, but also the U.S. Model Penal Code. Under no circumstances can the FSIA be used to foster criminality in the U.S.
Petitioner has pointed out during the devolution of the process that in his Original Complaint the violation of Art. 7 of the not self-executing U.N. Covenant on Civil and Political Rights has to be replaced by a violation of the VIIIth Amendment . Rape of the soul, as committed by the Respondents constitutes long lasting cruel psychic torture, and Petitioner as a medical doctor well versed in the subject of psychiatry outqualifies the/Court. District
That is the reason for his request for Habeas Mentem

There are so many exceptions satisfying Section

1605 that one wonders how the District Court could discharge this suit to the advantage of Respondents.

II

Belgium does not recognize the FSIA

Art. 4 of the Penal Code of Belgium does not try its citizens for offenses committed on foreign territory but leaves the jurisdiction to the foreign courts.

This, in terms of § 1605 (a) (1), constitutes a waiver of immunity by implication.

But even stronger, Belgium has constantly ignored the November 15, 1965 Convention of The Hague and Brussels, an integral part of the FSIA, three times during the devolution of this trial, as shown in the record. Furthermore, on December 20, 1996, Petitioner was invited by the present Minister (Secretary) of Justice the Honorable Stefaan De Clerck in his Cabinet to discuss the applicability of the FSIA between Belgium and the U.S.

Belgium is not interested in applying the FSIA for the sole purpose of saving the Respondent Dehaene. Former Head of Secret Security of Belgium , Albert Raes (R2-63-1 to 4; Memo of Law No19) in charge of the decision , for all practical purposes refuses to apply the FSIA in the direction Belgium-USA .

De facto refusal came from Judge Lavens of the Court of Oudenaarde who on December 4, '96 refused to release Petitioner's confiscated medical pension since 1987, which constitutes a debt instrument held by Petitioner against the

Respondent State. (Ga. J. Int'l & Comp.L.Vol. 21: 539, 1991, p. 550 : Shapiro v. Republic of Bolivia . By allowing a citizen who holds a debt instrument issued by a foreign government the ability to adjudicate a dispute, the court made foreign states more amenable to suit in the United States.).

According to " The Law of Peoples " by the late Belgian Prof. Dr.E.R.C. van Bogaert of the Universities of Ghent and Brussels, Treaties which are only unilaterally observed, lose their validity. (Law of Peoples, Kluwer, Antwerp Belgium, 1982, p.519, No. 238 "Exceptio non adimpleti contractus")

III

The U.S. District Court abused its discretion by granting to the Respondents in violation of 28 U.S.C. § 1605 (5)(A) the privilege of psychiatric abuse as a discretionary function of government.

Psychiatric abuse is outlawed by the Legal Custom Law of Belgium and the privilege of using it lies in the hands of the People of Belgium and its elected Representatives of Parliament, and not in those of a U.S.Federal Judge who shamefully meddled into the internal affairs of Belgium.

Psychiatric abuse , rape of the soul, is a criminal offense , which , if used by the President of the U.S. even inside of the U.S. territory would lead to his impeachment .

The appealed act of the District Court, affirmed and shoved under the rug by the Court of Appeals,

will be reversed by the U.S. Supreme Court in order to avoid the regret formulated by U.S. Ambassador George S. Vest in his letter of commendation to Petitioner on June 14, 1983:

" It is, of course, the privilege of every free man in a democratic society to voice disagreement with the policies of another country, but it becomes needlesly tendentious when people engage in relentless criticism against the country and the people as a whole ."

" Since your Belgian origins grant you more credibility in this country than our own often do, we appreciate all the more your active contribution to the cause of the better understanding between our two peoples."

IV

Forgery committed by a U.S. Federal Judge, unlike medical and engineering forgery, is there for all to see and in this particular case it already has been read in the Court of Brussels and in the Court of Cassation (Supreme Court) of Belgium.

Unfortunately, the credibility mentioned by Ambassador Vest, has been shaken.

Forgery in a Report and Recommendation by a Federal Magistrate Judge is not just " an error on appeal " but a fundamental deprivation of justice in a Judicial System in which the victim has only 2% chances of being awarded a writ of certiorari.

This is a sad state of affairs.

V

The dicta by the Respondents and by the U.S. District Court are replenished with errors of a diversity rarily encountered at this level :

1. Fundamental failure to grasp the principles of the FSIA :

The Respondents cite cases such as Princz v. Federal Republic of Germany, Frolova v. Union of Soviet Socialist Republics, McKeel v. Islamic Republic of Iran; Persinger v. Islamic Republic as cases where Foreign Sovereign Immunity prevailed. But the crux of the matter is that the crimes against U.S. citizens by Iran, Germany and the Soviet Union all took place on foreign soil, one (McKeel) did not consider American Embassies as U.S. Soil . For offenses on foreign soil, it is only natural that foreigners are immune from U.S. Jurisdiction. But those cases cannot be compared with the present offense by a foreign instrumentality against a U.S. citizen on U.S. territory.

The best the U.S. can do and should do through its U.S. Immigration and Naturalization Service is to prohibit foreign officials who commit serious offenses against U.S. citizens on their foreign territory, from entering U.S. territories. And this pathway shall be traveled by Petitioner. See Record on Appeal.

2. Acts committed by foreign individuals in their official capacities as agencies or instrumentalities :

Albert Raes, former Head of the Secret Security Service of Belgium presently in charge, according to

the Honorable Stefaan De Clerck, Secretary of Justice, of examining the applicability of the FISA in Belgium, has rendered a splendid example of what Belgian politicians as members of the Government do when they are in their official capacity. See R2-63-1 to 4.

3. The acts of Respondent Dehaene , as a soul rapist, certainly do not qualify as acting in his official capacity. At best one can say that for these acts against a U.S. citizen on Belgian soil, he should be prevented from entering the U.S. But as far as soul rapist in the U.S. against a U.S. citizen, he should not be immune from prosecution by U.S. courts.

Moreover, according to 28 U.S.C. Section 1603, 14, the sovereign immunity doctrine is not applicable to individual government officials under the FSI Act. Republic of Philippines by Cent. Bank of Philippines v. Marcos, N.D. Cal. 1987., 665 F.Supp.793

Furthermore, although States cannot be held to punitive damages, an instrumentality such as Respondent Dehaene can be held to punitive damages. See supra
28 U.S.C. § 1606 (4) . West v. Multibanco Comermex, S.A., C.A.9 (Cal) 1987, 807 F.2d 820.

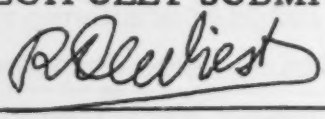
4. The argument that in the present case 28 U.S.C. § 1605(5)(B) is a valid exception fails because the criminal act is a rape of the soul (forgery) defined in the Model Penal Code and not a tortious act related to commercial matters . R2-53-3,4

5. The statement by the Respondents, on pp. .5-6 of their Joint Brief of Appellees, dated April 12, 1996 that "because the District Court dismissed De Wiest's complaint for lack of subject-matter jurisdiction, the facts as alleged in De Wiest's complaint are deemed to be true " shows an absolute lack of deductive logic. If the facts as alleged in De Wiest's complaint are deemed to be true, they are true because sufficient evidence have shown them to be true.

CONCLUSION :

Petitioner humbly prays the U.S. Supreme Court to examine this Petition on the merits in the interest of the law and justice and that certiorari be granted.

RESPECTFULLY SUBMITTED



ROGER J. DE WIEST
Advocate sworn, September 1, 1995
Court of Appeals, Ghent, Belgium
Hoogveld 21, 9300 Aalst, Belgium
(32) - 53.21.18.10
PROCEEDING PRO SE

ERRATA and ADDENDA

1. Attacking the trial judges as lacking in skill or understanding or legal competence is improper argument and ineffective. Preemption Devices, Inc. v. Minnesota Mining and Manufacturing Co. F.2d 903, 907 (Fed. Cir. 1984)

The case of U.S.Magistrate Judge W.C. Sherrill, Jr. has been publicly brought up in the Court of Brussels on February 11, 1997, Judge Mollaert presiding. The Judge has read the forgery in the Report and Recommendation of Judge Sherrill and could not deny the forgery.

As to the formulation of guilt, the Lawyers of the Respondents , by their profession,are not guilty, so the guilt must be shared by the Respondent Dehaene and Judge Sherrill..

2." Judges are not sacrosanct " Alan M. Dershowitz in the New York Times of December 30, 1987.

The responsibility of Judges and College Professors is almost identical. They must take " The bitter with the sweet " , C.J. Rehnquist in Arnett v. Kennedy, 416 U.S. 134, 94 S.ct 1633, 40 L.Ed. 2d 15 (1974)

3. Up till to date, February 28, 1997, five Belgian Courts have ruled in favor of Petitioner against the Respondent Dehaene and his entourage, namely the Judges Dujardin, Mollaerts (twice), Gosseye and Moeremans. The score is 5 to 0 in Belgium, in the U.S. the score is 0 to 2, in favor of Dehaene.

TRANSCRIPT RELEVANT FACTS ORIGINAL COMPLAINT.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF FLORIDA , TALLAHASSEE DIVISION

ROGER J. DE WIEST, Plaintiff vs. JEAN-LUC DEHAENE & STATE OF BELGIUM, Defendants	CIVIL ACTION No 94-40215-WS

JURISDICTION

The allegations made in this complaint set forth a cause of action of which the adjudication involves a case between a U.S. citizen Roger J. De Wiest, and a citizen of a foreign State, at the time of the alleged offense being the Minister of Social Affairs of the state of Belgium, and therefore is a case governed by Art. III, Section 2, (1), of the U.S. Constitution.

This is a transfer case from Belgium, where the initial felony was committed in the principal Defendant's cabinet, at his request, by his Chief of Cabinet Raymond Panneels, M.D. and general practitioner, who inserted the **criminal** diagnosis of **manic and paranoid psychopathy** in Petitioner's

medical file, without any medical examination, in order to eliminate him as the leading candidate for the position of Administrator- Director General of the INAMI-RIZIV, the Belgian National Institute of Sickness and Invalidity .

This was done in a wave of anti-American zealotry and while Petitioner was commended by U.S. Ambassador George S. Vest for his energetic involvement in the defense of the public image of the United States.(R 1-2, Exh.# 18)

The case was transferred to the U.S. when the Defendant Dehaene, via his immediate subordinate Schutyser who had been appointed to the position earned by Petitioner through linguistic examinations and superior degrees (No.1 at Caltech, Stanford and Medical School, etc.), on July 18, 1985 sent a letter with copies of the criminal diagnosis of manic and paranoid psychopathy to Dean Elvin Dantin of the FSU/FAMU College of Engineering where Petitioner, one of the leading hydrologists of the world as evidenced by his condensed ~~C.V. in Addendum~~ 1, was virtually immediately fired from his tenure earning position on the basis of psychopathy.

As a matter of fact, in their joint Brief of Appellees-Defendants, April 12, 1996, Counsel for the Defendants on p.6 admitted " the facts as alleged in De Wiest's complaint are deemed to be true." The Defendants never contested the reason for the firing.

The alleged offense involves fraud and libel to such an extent that the case constitutes an historic legal and factual precedent of psychiatric abuse, based upon hardcore facts of well established psychic rape, as it has been used in dictatorial regimens such as those established by Hitler and Stalin.

The Original Complaint was filed by the Office of the Clerk of the U.S. District Court on May 17, 1994 in a Memorandum TO : Pro Se Litigants, Re : DE WIEST v. DEHAENE, et al. stating :

1. Your civil rights complaint/habeas corpus petition has been received and filed in the Tallahassee Division and assigned case number 94-40215/WS.

Petitioner's Original Demand was formulated in terms of the European Civil System as Petitioner's knowledge of the American Common Law at that period of time as a pro se litigant was insufficient . Lack of financial resources compelled him to proceed pro se, almost in forma pauperis as half of Petitioner's income was derived from U.S. Social Security , his Belgian M.D. pension being confiscated by the Defendants in violation of the FSI Act.

In his Original Claim of May 19, 1994, Petitioner, among others ,asked for $3,000,000 punitive damages and for $ 1,000,000 compensatory damages .

A foreign state cannot be held liable for punitive damages but an agency or instrumentality may be . Gibbons v. Republic of Ireland, D.C.D.C. 1982, 532 F. Supp.668. Here the Principal Defendant is deemed

to be an agency or instrumentality in the District Court's Report and Recommendation. (infra p.4 Reference to Chuidian v. Philippine Nat'l Bank.)

The District Court's qualification of civil rights complaint / habeas corpus petition stems from Petitioner's PERORATION on p.44 of his Original Complaint : " In the case of mental commitment, instead of bodily commitment, of which Petitioner - Plaintiff is a victim in Belgium, the author should have the right to ask for the issuance of a writ of **Habeas Mentem** ad subjudiciendam ,as an extension se. ı lato of the Habeas Corpus act of 1679 under Charles II, proving that the mind is indeed captive in the hands of those who have declared the psychopathy. In other words, let Defendant Dehaene and his Council of State produce the sick mind of Plaintiff-Petitioner through public psychiatric exminations in the Court room.

THIS CONCLUDES THE TRANSCRIPT OF THE RELEVANT FACTS OF THE ORIGINAL COMPLAINT

MEMORANDUMS OF LAW AND MOTIONS

In the devolution of this litigation, several Motions were made by Petitioner, all duely supported by Memorandums of Law, reflecting the spirit of Rule 16 §6 of the June 30, 1980 Rules of the Supreme Court, resembling Rule 15 §8 of the updated October 2, 1995 Rules. At those times, a jurisdictional

statement was pending , calling attention to other intervening matter not available at the time of the party's last filing.

Petitioner's attention was drawn upon the disproportionality between his original claim and the damage his career had suffered and the damage that was done to the people of the United States as a whole. Reference is made here to Petitioner's invention of the Hydro-Cor engine of which the principles were unveiled at the International Conference on Water and Human Health, November 9-14, 1986, Atlanta , GA, where Petitioner was Special Advisor to the General Chairman. This engine which is now patented in Belgium is patterned after the human heart, based upon its fundamental working principles , the most recent in the development of the Mammalia, namely its coronaries and compliance.

These huge machines, placed in the great rivers of the U.S. which discharge their energy into the Oceans, allow the capture of part of these energy losses which constitute vast amounts of perennially renewable non-fossil dependent energy . Endorsed by the world famous Von Karman Institute of Fluid Mechanics, near Brussels, Petitioner succeeded in assembling the expertise of a team of international engineering scientists to build prototypes at the TISON Hydraulic Laboratories at the University of Ghent, Belgium, and while remaining the sole inventor.

On October 14, 1994, duely supported by a Memorandum of Law, Petitioner sent the following AMENDED ORIGINAL DEMAND to the Court : Plaintiff requests that Defendant Dehaene be issued a subpoena to appear in Court and that he stands for the following charges :
In due respect for Article 4 of the Belgian Penal Code which leaves the jurisdiction to the foreign Court in the judgment of penal offenses committed by its citizens outside the territory of Belgium :
1.and 2. Transgressions in Belgium : Defendant is immune
3. For having condoned that his protégé Schutyser on July 18, 1985, sneakily sent photocopies (plural) to Dean Dantin of the FAMU-FSU College of Engineering, of which at least one states in Flemish " de criminele diagnose van manische en paranoide psychopathie", which reads in English " the criminal diagnosis of manic and paranoid psychopathy", so that Dean Dantin did not need a translator to understand this Flemish expression and was entirely justified in his August 6, 1985 letter and in his preventive measures not to hire Plaintiff on a permanent basis.
4. That the transportation of a forged medical diagnosis across the U.S. boundary with the aim at influencing a contractual relationship between Plaintiff , a U.S. citizen and the State of Florida constitutes a Third Degree Felony.
5. That therefore Defendant Dehaene should stand

trial for it, because no foreigner, whatever his position may be, can commit criminal acts on U.S. soil,

that however he cannot be sentenced to jail but to an equivalent pecuniary punishment, to which both Defendants should be condemned jointly and severally.

Furthermore that the State of Belgium, the Warrantor-Defendant for its instrumentality , should be ordered :

1. To restore Plaintiff's legitimate pension in Belgium, as a debt he holds against the Defendant State

2. To pay Plaintiff the sum of $1,000,000 in compensatory damages for the loss of his tenured position as medical doctor in Belgium

3. To pay Plaintiff compensatory damages in the amount of $1,000,000 for salary and pension lost in the U.S., and for lost opportunities in academic research and in the manufacturing and commercialization of his Hydro-Cor invention.

4. To pay Plaintiff , through the Defendants' instrumentality, punitive and moral damages in the amount of $3,000,000 for psychiatric abuse, which is not within the discretionary function of any Sovereign, State or Government and which does constitute cruel, inhuman and degrading treatment as defined by the VIIIth Amendment of the U.S. Constitution, the Bill of Rights.

5. To pay $12,000,000 in punitive and moral damages

to the People of the United States, for the abuse these People have been suffering out of the Flamingant and anti-American campaign of hatred, as expressed in the letter dated June 14, 1983 on behalf of Ambassador George S. Vest, distributed as follows :

$ 2,000,000 to each of the following Institutions of Higher Learning :

a. The Woodrow Wilson School of International and Political Affairs, Princeton University
b. The FAMU/FSU College of Engineering
c. The Medical and Law Schools, Stanford University
d. The Florida State Law School
e. The Dean Rusk Center of International Law
f. The California Institute of Technology

6.7.8.9. To pay interest, travel expenses, cost of suits and such further relief as the Court deems proper . Furthermore Plaintiff moves that this Court applies 28 U.S.C. Art. 1610 (d)(2)

MEMORANDUM OF LAW No14, aka C.D. deposited October 27, 1994 with District Court
RECOVERY OF CORPUS DELICTI IN FELONY OF THIRD DEGREE COMMITTED BY DEFENDANTS ON U.S. SOIL

On October 11, 1994 ,the Defendants were compelled by the Court of Brussels to surrender one of the copies they sent sneakily behind Plaintiff's back to Dean Dantin of the FAMU/FSU college of Engineering. The Defendants did recognize that

one of the several corpora delicti (photocopies with Schutyser's July 18, 1985 letter) had been sent to Dean Dantin by the Defendants and this admission is sufficient for Plaintiff to sustain the burden of proof that a felony of the third degree had been committed.

Brussels Judge Mollaert was justified in his June 27, 1994 decision in condemning the Defendants on the sole reading of Dean Dantin's letter of August 6, 1994.

CONCLUSION : With the admission of this important evidence, as shown in EXHIBIT # 31 by the Defendants, Case No. TCA 94-40215-WS is reduced to its bare essentials : **crime and punishment.**

TRANSCRIPT OF LETTER SENT BY DEFENDANTS WITH CORPORA DELICTI

Brussels date : August 18, 1985 R1-2-Exh.7

From : INAMI, av. Tervuren 211, 1150 BR.

TO: Department of Civil Engineering
FAMU/FSU College of Engineering
P.O. Box 807 FAMU
Tallahasee Florida, 32307 U.S.A.

For the attention of the General Manager,

Dear Sir,

Concerns : Roger J.M. DE WIEST
"Geneesheer-inspecteur".

We have just received from our above-named staffmember a letter under the heading of your department (photocopies herewith) where he mentions among others his status " Gewone Hoogleraar" and of "Professor of Civil Engineering".

As we would like to clarify the administrative position of the person concerned, we want to know if Mr. DE WIEST has a function or a mission in your department.

If it is the case, is he paid for his services?

Could you be so pleased as to answer our question as quick as possible.

Your sincerely,

De Administrateur-generaal

signed: R.SCHUTYSER

P.S. the word Psychopathie has been handwritten above the word photocopies, referred to by a line.

RESPONSE by Dean Dantin R 1-2-Exh.8

FAMU/FSU COLLEGE OF ENGINEERING
Office of the Dean
August 6, 1985
Mr. R. Schutyser
Administrator General
INAMI-RIZIV
Brussels, Belgium
Subject: LETTER OF JULY 18,1985, Professor Roger J. M. De Wiest, Ph.D., M.D.

Your letter of July 18, 1985 was passed on to me for a response. The Constitution of the United States of America prohibits me from providing you with personal information about an individual without the explicit knowledge and consent of the individual.

In addition, the information provided on Dr. De Wiest's personal health is privileged information and to reveal it is against all professional ethics.

Sincerely,

Elvin J. Dantin, Dean

cc. The Royal Court of Belgium
The U.S. Ambassador in Belgium
Mr. G. Verhegge, Attorney General of Flanders
Mr. L. Tindemans, Secretary of Foreign Affairs, Belgium.

CLEAR TEXT FORGERY

The U.S. Magistrate Judge altered the text, to the detriment of Petitioner De Wiest and to discharge the Defendant as follows : (see REPORT AND RECOMMENDATION, p. 2, line 5 from bottom)

" A copy of the response to the letter (and attachments) from Dean Elvin Dantin, dated August 6, 1985, is exhibit 8. **It states that he is prohibited from providing personal information** ***or health information*** **without the explicit knowledge and consent of the individual."** (Letter type changed)

But it is crystal clear from Dantin's letter that

the latter himself has been **passively provided with** privileged information on Plaintiff's personal health, and not that he himself is prohibited to actively send infor . tion about Plaintiff's personal health.

And nowhere in the Judge's Report is there a reference to the **corpus delicti** which Denruyter held in his hand . The latter is the Belgian judicial officer who investigated this forgery , on behalf of the Brussels Criminal Court. The forgery was brought to the attention of the Honorable Jacques Vélu, Prosecutor General and Chief Magistrate of the Court of Cassation, the Supreme Court of Belgium .

Even stronger, on page 2 of his Report and Recommendation, the U.S. Magistrate Judge explains that there is no letter that uses the word" psychopath", whereas Memorandum of Law No14, aka C.D. sent on October 27, 1994 and filed by the District Court on November 2, 1994, shows that at least one of the documents, the most recent one, does contain the criminal diagnosis of " manic and paranoid psychopathy" . (see Record on Appeals as R 1-58)

Is this a case of **willful blindness, to deliberately avoid positive knowledge?** U.S. v. Jewell 532 F.2d 697(9th Cir. 1976). It is therefore a **fact** that the U.S. Magistrate Judge has altered Dantin's text, without the authorization of Dantin **(Forgery), wilfully (Kind of Culpability)** to eliminate a crucial document not only from the record but also from his Order.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

* * * * * * * * * * * * * * * * * *

ROGER J. DE WIEST, Appellant-Plaintiff

v. Case No. 95-3344

JEAN-LUC DEHAENE & STATE OF BELGIUM,
Appellees-Defendants

Appealed from the U.S. District Court for the Northern District of Florida

MEMORANDUM AND MOTION FOR MINOR ADJUSTMENT OF MEMORANDUM AND MOTION FOR SUMMARY REVERSAL sent by Federal Express and delivered to the Court on May 28, 1996. Not reproduced herewith

THE PRESENT DOCUMENT WAS SENT TO THE Court on June 28, 1996 via Priority Air Service

PROPOSED ORDER

Upon consideration of the Order proposed on April 9, 1996 on which no action has been taken yet and which remains standing as a separate issue;

Upon consideration of the Memorandum and Motion for Summary Reversal submitted May 28, 1996 and the enclosed Memorandum and Motion for minor adjustment,

Upon receipt of the opinion of the U.S. Supreme Court on the Certified Question submitted to the Court of Appeals by Appellant-Plaintiff

with his Memorandum and Motion dated May 24, 1996,

It is ORDERED :

1. The Order by the U.S. District Court dated September 14, 1995 is reversed.

2. Appellant-Plaintiff's claim as specified in his Brief of Appellant is satisfied as follows :

   1. Moral, punitive and compensatory damage awards for a total of $ 8,000,000.
   2. Interest after Judgment at the maximum legal rate
   3. Travel expenses, attorney's fees, for legal aid paid to experts, together with costs and disbursements of this action.
   4. Costs of Suit
   5. Such other relief and damages as the Court deems proper.
   6. Punitive, moral and compensatory damages to the extent of $ 14,000,000 to the People of the United States, sum requested by Plaintiff in his capacity of former Member of the Board of Directors of the First Herbert Hoover Foundation, the Belgian - American Educational Foundation, distributed as follows :

      $2,000,000 to each of the following Institutions of Higher Learning : (modified depending upon acceptance of pledges) :

      a. The Woodrow Wilson School, at Princeton

b. The Dean Rusk Center for International Law, University of Georgia, Athens, Georgia
c. A Law School of Plaintiff's choice for the teaching of European Community Law, preferably FSU
d. The Medical and Law Schools, Stanford Univerrsity
e. The Georgia Institute of Technology and the University of Ghent, each for $ 1,000,000
f. The Belgian American Educational Foundation, for $ 2,000,000 for the exchange of educational, cultural, athletic and other sports endeavours between Belgium and the U.S. , as an outgrowth of the present Magnel-De Wiest scholarships
g. The University of Stockholm for the Fund "Protect the Children", for $ 2,000,000
h. The foundations for Julie et Mélissa et al., in memory of the murdered and missing Belgian children, for $ 2,000,000

With the understanding that forfeited pledges will be directed to other Institutes on the merits and on a first come first served basis, no acceptance of pledges having come forward neither from The California Institute of Technology nor from the FAMU/ FSU College of Engineering .
DONE AND ORDERED this_____ day of ------ 1996

The U.S. Court of Appeals
Eleventh Circuit

TRANSCRIPT
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

ROGER J. DE WIEST,
Plaintiff,

vs. TCA 94-40215-WS

JEAN-LUC DEHAENE and
THE STATE OF BELGIUM,
Defendants.

REPORT AND RECOMMENDATIONS

This cause was initiated by the filing of a complaint by Plaintiff De Wiest against the State of Belgium and its Prime Minister. Doc. 2. Plaintiff asserts jurisdiction under Article III, § 2 (1) of the Constitution.

The allegations concern a letter sent by Rafael Schutyser, Administrator General of the RIZIV (the State of Belgium's institute of sickness and disability) . Plaintiff alleges that Schutyser, a subordinate of Prime Minister Dehaene, sent a letter to the Florida State University and Florida Agricultural and Mechanical University (FSU-FAMU) school of engineering on July 18, 1985,

indicating that Plaintiff was a manic and paranoid psychopath. Defendants have not asserted statute of limitations as a defense.

There is a letter from Schutyser to the FSU-FAMU school of that date attached to the complaint as exhibit 6, which begins :

We have just received from our above-named staff member a letter under the heading of your department(photocopies herewith) where he mentions among others his status of " Gewone Hoogleraar" and of "Professor of Civil Engineering".

The letter seeks to clarify Plaintiff's position in the FSU-FAMU department, and if so whether he was paid for his services. On the original in the court file the term "photocopies herewith " is circled in yellow, and a line is drawn in ink from the word "photocopies" to the word "psychopathie" (psychopathy), hand-written in ink. There is no statement in the lettter that Plaintiff is manic and paranoid or a psychopath, aside from the handwritten notation " psychopathie ", (supra) which appears to have been added later.

Plaintiff has provided the attachements to the letter and his partial translations of the letters in English. One attachement, a letter signed on Dehaene's behalf, advises that because of

permanent physical incapacity Plaintiff was admitted to permanent premature retirement. The word psychopath is not used, although one medical reason given is Plaintiff's " paranoid and hypomanic structure of personality ." A copy of the response to the letter (and attachements) from Dean Elvin Dantin, dated August 6, 1985, is exhibit 8. It states that he is prohibited from providing personal information or health information without the explicit knowledge and consent of the individual.

Plaintiff alleges that this false medical information was concocted by Dehaene's cabinet to facilitate Schutyser's appointment as Administrator General of the RIZIV, that it was fraudulent falsification of medical records, libel, defamation, falsity and malice. Plaintiff seeks damages jointly and severally from Dehaene and the State of Belgium.

Defendants assert that this court lacks jurisdiction because they are immune under the Foreign Sovereign Immunities Act (FISA), 28 U.S.C. §§ 1330, 1602-1611. Doc. 38 . The FISA connects the issues of subject matter jurisdiction and sovereign immunity, such that this court lacks jurisdiction unless one of the exceptions to

sovereign immunity applies. Fargo Weite Reisen v. Jamaica Vacations Ltd. Inc., 790 F.Supp. 272, 274 (S.D. Fla.1992).

Under the FSIA, subject to existing international agreements to which the United States was a party at the time of enactment, a foreign state is immune from the jurisdiction of state and federal courts except as provided in § 1605 to § 1607.

Under the Act, a foreign state is presumptively immune from the jurisdiction of United States courts; unless a specified exception applies, a federal court lacks subject-matter jurisdiction over a claim against a foreign state.

Saudi Arabia v. Nelson, __ U.S.__, 113 S.Ct. 1471, 1476, 123 L.Ed. 2d 47 (1993) (citations omitted). A foreign state (except for purposes of § 1608, pertaining to service of process) includes a political subdivision or agency or instrumentality of a foreign state. § 1603 (a). An agency or instrumentality means any entity which is a separate legal person, corporate or otherwise, which is an organ of a foreign state or political subdivision, and which is not a citizen of the United States or created under the laws of a third country. § 1603 (b). Section 1603 has been

read to include (and provide immunity to) individuals acting in their official capacities as agencies or instrumentalities. Chuidian v. Philippine Nat'l Bank , 912 F.2d 1095, 1101-03 (9th Cir. 1990) (citing cases).

The state of Belgium itself is clearly a foreign state, and so entitled to immunity unless disentitled to it under § 1605 to § 1607. The letter obtaining information on Plaintiff's present situation was written in the author's official capacity for the department of sickness and disability in a country seeking to place him in permanent premature retirement. There is no allegation of anything done by Dehaene or Schutyser which demonstrates their actions were not taken in their official capacities. They are entitled to immunity unless disentitled to it under § 1605 to § 1607.

Plaintiff has not demonstrated that any of the enumerated exceptions to sovereign immunity applies here. The act was not related to commercial activity carried on in the United States or elsewhere. Cf, 113 S.Ct. at 1471 (refinancing of bonds was commercial activity, but the abuse of police power was not) (citations omitted). Further, the alleged tortious act or

omission of the official or employee of the foreign state while acting in the course of his employment was "libel, slander, misrepresentation, (and) deceit" which is expressly not exempt from immunity. §§ 1605(a) (2) and (a) (5) (B)

Since Plaintiff has not demonstrated an exception to sovereign immunity, this court lacks jurisdiction over his claims. In light of this recommendation, the court by separate order denies all other pending motions.

It is therefore respectfully RECOMMENDED that the motion to dismiss, doc. 38, be GRANTED, and Defendants State of Belgium and the Prime Minister be DISMISSED with prejudice under the Foreign Sovereign Immunities Act. It is further RECOMMENDED that Plaintiff's motion for summary judgment, doc. 30, accordingly be DENIED.

IN CHAMBERS at Tallhassee, Florida, this day of March, 1995

WILLIAM C. SHERRILL, JR.
UNITED STATES MAGISTRATE JUDGE

NOTICE TO THE PARTIES

A party may file specific, written objections to the proposed findings and recommendations within 15 days after being served with a copy of this report and recommendation. A party may respond to another party's objections within 10 days after being served with a copy thereof. Failure to file specific objections limits the scope of review of proposed factual findings and recommendations.

TRANSCRIPT
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

ROGER J. DE WIEST,
Plaintiff,

v. TCA 94-40215-WS

JEAN-LUC DEHAENE &
THE STATE OF BELGIUM,
Defendants,

ORDER OF DISMISSAL

Before the court is the magistrate judge's report and recommendation dated March 23, 1995 (document 72). The magistrate judge recommends that defendants' motion to dismiss (document 38) be granted and that defendants be dismissed with prejudice under the Foreign Sovereign Immunities Act. The magistrate judge also recommends that plaintiff's motion for summary judgment (document 30) be denied. Pursuant to Title 28, United States Code, Section 638 (b) (1) both parties were advised of the opportunity to file objections to the report and recommendation.

Having considered the magistrate judge's report

and recommendation (document 72) and the parties' objections and responses thereto (documents 74 - 79), the court determines that the magistrate judge's report and recommendation should be adopted.

Accordingly it is ORDERED :

1: The magistrate judge's report and recommendation (document 72) is adopted and incorporated by reference into this order of the court.

2 : Defendants' motion to dismiss (document 38) is GRANTED.

Defendants State of Belgium and the Prime Minister are DISMISSED with prejudice under the Foreign Sovereign Immunities Act. The clerk shall enter judgment accordingly.

3 : Plaintiff's motion for summary judgment (document 30) is DENIED.

4 : Plaintiff's motion for change of venue (document 75) is DENIED.

DONE AND ORDERED this 14th day of September, 1995 .

WILLIAM STAFFORD
UNITED STATES DISTRICT JUDGE

Filed U.S. Court of Appeals Dec. 17 1996

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 95 - 3344

Non- Argument Calendar

D.C. Docket No. 94-CV- 40215- WS

ROGER J. DE WIEST, Plaintiff-Appellant

versus

JEAN-LUC DEHAENE,

STATE OF BELGIUM, Defendants-Appellees

Appeal from the United States District Court for the Northern District of Florida

Before HATCHETT, Chief Judge, TJOFLAT and COX, Circuit Judges.

PER CURIAM :

Roger J. De Wiest appeals the dismissal of his tort claim against the Kingdom of Belgium and Prime Minister Jean-Luc Dehaene for lack of subject matter jurisdiction.

We conclude that the district court properly dismissed the action for lack of subject matter jurisdiction for the reasons stated in the Report and Recommendation of the Magistrate Judge (R.2-72), that was adopted by the court. (R. 2-80.)

AFFIRMED. (1)

(1) All of appellants' pending motions are denied.

TRANSCRIPT : UNITED STATES COURT OF APPEALS, for the Eleventh Circuit.

FILED
U.S. COURT
OF APPEALS
ELEVENTH
CIRCUIT

No. 95-3344

Non-Argument Calendar

District Court Docket No. 94-CV-40215

ROGER J. DE WIEST Plaintiff-Appellant

versus

DEC 17, 1996

JEAN-LUC DEHAENE,

STATE OF BELGIUM Defendants - Appellees

Appeal from the United States District Court for the Northern District of Florida

Before HATCHETT, Chief Judge, TJOFLAT and COX, Circuit Judges

JUDGMENT

This cause came to be heard on the transcript of the record from the United States District Court for the Northern District of Florida, and was taken under submission by the Court upon the record and briefs on file, pursuant to Eleventh Circuit Rule 34-3;

UPON CONSIDERATION WHEREOF, it is now hereby ordered and adjudged by this Court that the judgement of the said District Court in this cause be and the same is hereby AFFIRMED.

IT IS FURTHER ORDERED that plaintiff-appellant pay defendants-appellees the costs on appeal to be taxed by the Clerk of this Court.

Entered: December 17, 1996

For the Court: Miguel J. Cortez, Clerk

By : Deputy Clerk, (signature)

ISSUED AS MANDATE : 1/16/97